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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 MICHAEL HOLTSINGER,

12 Plaintiff,

13 vs.

No. CIV S-03-0732 MCE CMK P

14 J. M. BRIDDLE, et al.,

15 Defendants.

ORDER TO SHOW CAUSE

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17 Plaintiff is a prisoner proceeding pro se and in forma pauperis with a civil rights  
18 action under 42 U.S.C. §1983 This proceeding was referred to this court by Local Rule 72-302  
19 by the authority of 28 U.S.C. § 636(b)(1).


20 On January 12, 2005, the court granted plaintiff leave to file an amended  
21 complaint. One of the defendants listed in plaintiff's amended complaint was John Doe #5. In a  
22 preliminary statement attached to his amended complaint, plaintiff stated that, although plaintiff  
23 was able to identify other doe defendants through production of documents, he has not yet been  
24 able to identify John Doe #5. (Doc. 55.) Plaintiff stated that he would "continue his diligence in  
25 trying to identify John Doe #5." (See id.)

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1 Rule 4(m) provides that if service is not made on a defendant within 120 days after  
2 the filing of a complaint, the court may, upon its own initiative after notice to the plaintiff,  
3 dismiss the action without prejudice as to the unserved defendant. Fed. R. Civ. P 4(m). Over  
4 120 days have passed since the filing of plaintiff's first amended complaint.<sup>1</sup>

5 Accordingly, IT IS ORDERED that, within twenty days from the date of service of  
6 this order, plaintiff shall show good cause in writing why this action should not be dismissed  
7 without prejudice as to defendant John Doe #5 for failure to serve in a timely manner.

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9 DATED: January 11, 2006.

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12 **CRAIG M. KELLISON**  
13 UNITED STATES MAGISTRATE JUDGE  
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25 <sup>1</sup>Plaintiff's in forma pauperis status relieves him of the responsibility of effecting service,  
26 but Plaintiff is still responsible for providing sufficient information to serve the defendants. See  
Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994) (abrogated on other grounds).